

APPEAL NO. 032761  
FILED DECEMBER 8, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 17, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and that because the claimant did not sustain a compensable injury, he did not have disability. The claimant appealed on sufficiency of the evidence grounds. The carrier responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury on \_\_\_\_\_. The claimant had the burden of proof on the injury issue and it presented a question of fact for the hearing officer to resolve. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In this instance, the hearing officer was not persuaded that the claimant established by a preponderance of the credible evidence that he sustained an injury in the course and scope of his employment on \_\_\_\_\_. The hearing officer was acting within her province as the fact finder in so finding. Nothing in our review of the record demonstrates that the hearing officer's injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust; therefore, no sound basis exists for us to reverse that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because we have affirmed the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **BITUMINOUS CASUALTY CORPORATION** and the name and address of its registered agent for service of process is

**GLENN CAMERON  
222 WEST LAS COLINAS BLVD, SUITE 1720  
IRVING, TEXAS 75016-7968.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Edward Vilano  
Appeals Judge